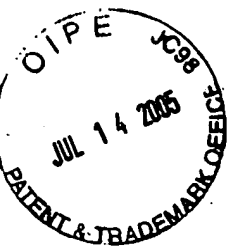


FW



Docket No.: 050179-0110

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 20277
Peter David EAST : Confirmation Number: 4463
Application No.: 10/617,962 : Group Art Unit: 1638
Filed: July 14, 2003 : Allowed: June 28, 2005
Examiner: Anne R. Kubelik
For: A TOXIN GENE FROM THE BACTERIA PHOTORHABDUS LUMINESCENS (As Amended)

REQUEST FOR ACKNOWLEDGEMENT OF THE CITED ART

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant is in receipt of the Notice of Allowance dated June 28, 2005.

In reviewing the file, it is noted that we have not received acknowledgement of the Information Disclosure Statement and cited art filed July 14, 2003, which references were cited or submitted in the parent application under 37 CFR 1.98(d). Enclosed are copies of the Information Disclosure Statement, PTO-1449 and stamped return postcard acknowledgement.

Applicant hereby respectfully requests that:

- (1) the appropriately acknowledged PTO-1449 be furnished to Applicant; and
- (2) the record be clarified to confirm that the cited art has been considered and made of record.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Kelli N. Watson
Registration No. 47,170

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 KNW:cg
Facsimile: 202.756.8087
Date: July 14, 2005

**Please recognize our Customer No. 20277 as
our correspondence address.**

Applicant: Peter David EASTDocket No. 50179-110Title: TOXIN GENES FROM THE BACTERIA XENORHABDUS NEMATOPHILUS AND PHOTORHABDUS LUMINESCENS

Serial/Reg./Patent No. _____

Date Sent: 7/14/2003☒ Hand Carried☐ Fax☐ Electronic☐ Cert. of Mailing☐ Express Mail No. _____☒ Transmittal Letter

New Patent App

☐ Utility☐ Design☒ Cont.☐ CIP☐ Div.☐ PCT☐ RCE☐ Prov☐ Other: _____32 pages of Specification3 pages of Claims

_____ pages of Abstract

9 pages of Formal/Informal Drawings☐ Small Entity☐ Large Entity☐ Declaration/Power of Attorney☐ Recordation of Assignment/Security Agreement☒ Information Disclosure Statement

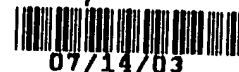
Form PTO 1449

_____ copies of cited references

☒ Preliminary Amendment☐ Response to Missing Parts Notice☐ Resp. to Notice to Correct App. Papers☐ Certified Copy of Priority Doc.☐ Claim for Convention Priority☐ Response/Amendment to Office Action of _____☐ Request for _____ month Extension of Time☐ Letter submitting _____ pages of drawings☐ Req. for Approval of Drawing Amendments☐ Req. for Oral Hearing☐ Not. of Appeal ☐ Appeal Brief☐ Reply Brief☐ Rule 312 Amendment/Letter☐ Req. for Acknowledgement of Cited Art☐ Issue Fee☐ Publication Fee☐ Req. for Certificate of Correction☐ Maintenance Fee for _____ years after grant☐ Fee Address Indication Form☐ Terminal Disclaimer☐ Petition to Commissioner☐ Status Inquiry☒ Other Correspondence Address Change

17058 U.S. PTO

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SERIAL # _____

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CMS Descrip.: (1) 750.00

THE PATENT AND TRADEMARK OFFICE DATE STAMPED HEREON IS ACKNOWLEDGEMENT THAT THE ITEMS, CHECKED ABOVE, WERE RECEIVED BY THE PTO ON THE DATE STAMPED.

Docket No.: 50179-110

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Peter David EAST

Serial No.: Continuation of Appln.

Serial No. 09/463,048

: Group Art Unit: Not yet assigned

Filed: July 14, 2003

: Examiner: Not yet assigned

For: TOXIN GENES FROM THE BACTERIA XENORHABDUS NEMATOPHILUS AND
PHOTORHABDUS LUMINESCENS

INFORMATION DISCLOSURE STATEMENT

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with the provisions of 37 C.F.R. 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the references listed on the attached form PTO-1449. It is respectfully requested that the references be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No certification or fee is required.

The references were cited by or submitted to the U.S. Patent and Trademark Office in parent application Serial No. 09/463,048, filed April 4, 2000, which is relied upon for an earlier filing date under 35 USC 120. Thus, copies of these references are not attached. 37 CFR 1.98(d).

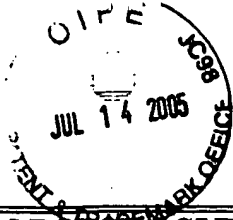
Respectfully submitted,
MCDERMOTT, WILL & EMERY

Robert L. Price REG. NO. 39,048

For

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Registration No. 22,685

600 13th Street, N.W.
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Date: July 14, 2003



SHEET 1 OF 1

INFORMATION DISCLOSURE
CITATION IN AN
APPLICATION

(PTO-1449)

ATTY. DOCKET NO.
50179-110SERIAL NO.
**Continuation of Appln.
Serial No. 09/463,048**APPLICANT
Peter David EASTFILING DATE
July 14, 2003GROUP
Not yet assigned

U.S. PATENT DOCUMENTS

| EXAMINER'S INITIALS | CITE NO. | Document Number Number-Kind Code ² (if known) | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
|---------------------|----------|---|--------------------------------|---|---|
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FOREIGN PATENT DOCUMENTS

| EXAMINER'S INITIALS | CITE NO. | Foreign Patent Document Country Codes-Number & Kind Codes (if known) | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines Where Relevant Figures Appear | Translation | |
|---------------------|----------|--|--------------------------------|---|---|-------------|----|
| | | | | | | Yes | No |
| | | WO 95/00647 | 1/95 | | | | |
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OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

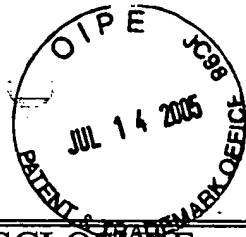
| EXAMINER'S INITIALS | CITE NO. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. |
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EXAMINER

DATE CONSIDERED

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.



SHEET 2 OF 2

INFORMATION DISCLOSURE
CITATION IN AN
APPLICATIONATTY. DOCKET NO.
50179-110SERIAL NO.
Continuation of Appln.
Serial No. 09/463,048APPLICANT
Peter David EASTFILING DATE
July 14, 2003GROUP
Not yet assigned

(PTO-1449)

U.S. PATENT DOCUMENTS

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OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

| EXAMINER'S INITIALS | CITE NO. | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | |
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